Order 99-6-13

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation
on the 14th day of June, 1999

SERVED JUNE 16, 1999

Essential Air Service at **MOAB, UTAH** **ELY, NEVADA** **PAGE, ARIZONA** under 49 U.S.C. 41731 *et seq*.	**Dockets OST-1997-2827** **OST-1995-361** **OST-1997-2694**

ORDER

Summary

By this order, the Department confirms that Sunrise Airlines, Inc., has the essential air service obligations to serve Ely, Nevada, as the successor-in-interest to Scenic Airlines and to serve Moab, Utah, as the successor-in-interest to Redtail Aviation. This order also amends the two-year rate terms for Sunrise to provide essential air service at Moab and Ely established for Redtail and Scenic in Order 98-7-1, issued July 1, 1998. We are also authorizing an adjustment to Alpine Aviation's subsidy rate for its essential air service to Ely.[1]

Background

Ely

By Order 98-7-1, issued July 1, 1998, the Department selected Scenic to provide essential air service at Ely, replacing Alpine Aviation, Inc., and established a subsidy rate to be effective for approximately two years, from the date of inauguration through September 30, 2000. However, Scenic was unable to inaugurate its Ely service immediately, and in January 1998, the non-scheduled operating assets of Scenic were sold by its parent (SkyWest Airlines) to Eagle Canyon Airlines, along with the name "Scenic." The successor company, with its remaining assets, consisting mainly of the Page essential air service operation, a hangar at Page, and the essential air service contract for Ely service, was renamed "SunAir Express, Inc."

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[1] See Appendix A for a map.

On March 2, 1999, SunAir Express was sold to JCMI, Inc., a holding company wholly owned by Mr. Clifford Langness, and the carrier's name was changed to Sunrise Airlines, Inc. Sunrise now advises the Department that it intends to inaugurate service at Ely, in accordance with Order 98-7-1, on or about July 1, 1999, with 19-seat Jetstream aircraft.[2]

Moab

Also by Order 98-7-1, the Department tentatively selected Redtail Aviation, Inc. (Redtail) to replace Alpine at Moab, with subsidy, for a two-year period. However, Redtail was similarly unable to implement its selection immediately and in September 1998, Express Air, Inc., a commuter air carrier wholly owned by Mr. Langness, purchased 100 percent of the outstanding stock of Redtail and subsequently merged the operations of Redtail into Express Air. As part of that transaction, Express Air assumed, with our approval, all of the assets and liabilities of Redtail, including the subsidized Moab essential air service route, at the same terms and conditions applicable to Redtail. Express Air has now requested that Redtail's essential air service obligations be transferred to Sunrise, a related company. Sunrise would provide service, beginning on or about June 15, 1999, with 19-seat British Aerospace Jetstream aircraft (Redtail had proposed to use 8-seat Beech KingAir 200 aircraft).[3]

Revision of Rate Terms

Consistent with program practice, we are revising the two-year contracts with Sunrise to begin with its inauguration of service at Moab on or about June 15, 1999, through June 30, 2001, and at Ely on or about July 1, 1999, through June 30, 2001.

For administrative clarity we note also that subsidized essential air service at Page, Arizona, is currently being provided by Sunrise Airlines as the corporate successor to Scenic, which was selected to serve Page in Order 97-7-18, and subsequently reselected in Order 97-10-21. Sunrise's current rate term at Page expires December 31, 1999. We will be contacting Sunrise later this year about its interest in continuing to serve Page beyond December 31.

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2 The White Pine County Commission, representing Ely, has been advised of Sunrise's proposed startup date and fully supports the inauguration of the direct service to Las Vegas and connecting service to Reno and Carson City (via Elko) that Sunrise will provide.

3 In order to ensure a smooth transition of service at Moab, Sunrise has advised the Department that it will incorporate Alpine's current schedule into its new operations, at least for the summer period. Sunrise will overnight its aircraft in Moab and fly the first flight of the day to Salt Lake City. It will then operate the next four flights under Alpine's current two-round-trip-a-day schedule, and its last flight of the day will return the aircraft to Moab. The Grand County Airport Board, on behalf of the City of Moab, has advised the Department that it prefers the larger Jetstream aircraft to Redtail's proposed 8-seat KingAir's and that it is pleased that Alpine's current schedule will be maintained so that passengers that already have tickets to or from Moab for the busy summer tourist season will not have to rebook their connecting flights.

Short-Term Adjustment of Rate for Alpine's Service at Ely

Some of Alpine's costs for service at Ely and Moab are shared. For example, Alpine's station costs at Salt Lake City are allocated equally between the Moab-Salt Lake City route and the Ely-Salt Lake City route. Alpine has informally requested that, if its service to Moab is terminated, those "shared" costs be transferred to the Ely rate. On that eventuality, the carrier requests that its rate at Ely be increased by $50,000 per year to cover these costs. We agree that such an adjustment is appropriate for the brief period of time (expected to be approximately two weeks) starting when replacement service begins at Moab, until replacement service is in place at Ely.[4]

Service Transition

We expect Alpine and Sunrise to continue to make every effort to ensure an orderly transfer of service at Moab and Ely. We expect that before Alpine suspends service, it will contact all passengers holding reservations for flights that will be suspended, inform them of replacement service by Sunrise, and assist them in arranging alternate transportation.

This order is issued under authority delegated in 49 CFR 1.56a(f).

ACCORDINGLY,

1. The Department confirms that Sunrise Airlines, Inc., is obligated to provide essential air service at Ely, NV, as the successor-in-interest to Scenic Airlines and to provide essential air service at Moab, UT, as the successor-in-interest to Redtail Aviation;

2. The Department amends the effective dates of the subsidy rates established in Order 98-7-1 for Sunrise Airlines, Inc. (formerly Redtail Aviation, Inc. and Scenic Airlines, Inc.) for the provision of essential air service to Moab, Utah, and Ely, Nevada, as follows:

(a) for Moab, subsidy is authorized as set forth in Appendix B of this order, effective for a two-year period beginning on the date that Sunrise commences service at Moab, on or about June 15, 1999, and ending June 30, 2001;

(b) for Ely, subsidy is authorized as set forth in Appendix C of this order, effective for a two-year period beginning on the date that Sunrise commences service at Ely, on or about July 1, 1999, and ending June 30, 2001; [5]

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[4] See Appendix D for a summary of Alpine's amended rate for service at Ely.

[5] We remind Sunrise Airlines, Inc., that it is required, as ordered in Order 98-7-1, to retain all books, records, and other source and summary documentation to support subsidy claims for payment, and to preserve and maintain such documentation in a manner that readily permits its audit and examination by representatives of the Department. Such documentation shall be retained for seven years or until the Department indicates that the records may be destroyed. Copies of flight logs for aircraft sold or disposed of must be retained. The carrier may forfeit its compensation for any claim that is not supported under the terms of this order.

3. The Department amends the final rate of compensation set by Order 97-12-29, for Alpine Aviation, Inc., for the provision of essential air service at Ely, Nevada, to the level as set forth in Appendix D of this order, for the period beginning on the date that Sunrise Airlines, Inc., commences service at Moab, Utah, in accordance with ordering paragraph 1(a) above, and ending on the date that Sunrise Airlines commences service at Ely, Nevada, as set forth in ordering paragraph 1(b), above;

4. We will allow Alpine Aviation, Inc., d/b/a Alpine Air, to suspend its service at Moab, Utah, and Ely, Nevada, when Sunrise Airlines, Inc., commences service at each community;

5. These dockets will remain open until further order of the Department; and

6. The Department will serve copies of this order on the Mayors and airport managers of Moab, Utah, Ely, Nevada, and Page, Arizona, the airport manager of Salt Lake City Airport, the Grand County Airport Board, the Grand County Council, the White Pine County Commission, the Governors of Utah, Nevada and Arizona, the Utah, Nevada and Arizona Departments of Transportation, Sunrise Airlines, Alpine Aviation, SkyWest Airlines, and British Aerospace, Inc.

By:

A. BRADLEY MIMS
Acting Assistant Secretary for Aviation
and International Affairs

(SEAL)

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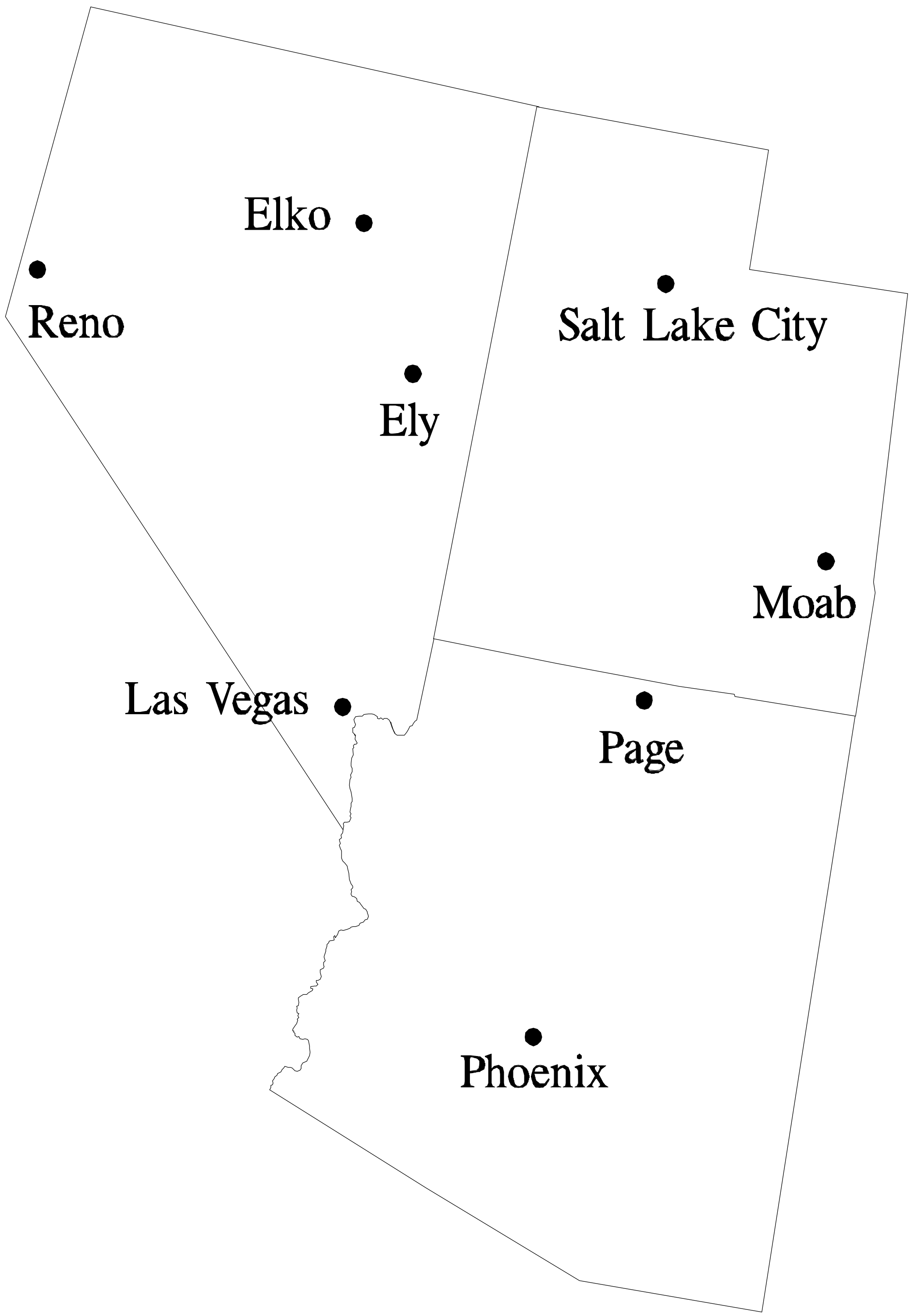
Appendix A



ESSENTIAL AIR SERVICE TO BE PROVIDED BY
SUNRISE AIRLINES, INC.
AT MOAB, UTAH

EFFECTIVE PERIOD	The two-year period beginning on the date the carrier inaugurates the level of service described below, on or about June 15, 1999, through June 30, 2001
SERVICE	To Salt Lake City (183 miles nonstop)

MINIMUM FREQUENCY

Seasonal service:			Round trips per week:
Peak season	20 weeks	May 15-September 15	21
Shoulder season	6 weeks	September 16-October 31	12
Off-peak season	20 weeks	November 1-March 31	10
Shoulder season	6 weeks	April 1-May 14	12

STOPS ALLOWED	None
UPLINE SERVICE LIMITATIONS	Single-plane service beyond Moab is not contemplated under this rate and therefore will not be permitted without prior Department approval.
AIRCRAFT TYPE	19-seat Jetstream
TIMING OF FLIGHTS	Flights must be well-timed and well-spaced to ensure full compensation.
ANNUAL SUBSIDY RATE	$595,373

ESSENTIAL AIR SERVICE TO BE PROVIDED BY
SUNRISE AIRLINES, INC.
AT MOAB, UTAH

SUBSIDY RATE PER
DEPARTURE/ARRIVAL $397.71 [1]

COMPENSATION CEILING EACH WEEK IN THE 20-WEEK PEAK SUMMER PERIOD $16,703.82 [2]

COMPENSATION CEILING EACH WEEK IN THE TWO SIX-WEEK SHOULDER PERIODS $9,545.04 [3]

COMPENSATION CEILING EACH WEEK IN THE 20-WEEK OFF-PEAK PERIOD $7,954.20 [4]

NOTE: The carrier understands that it may forfeit its compensation for any flights that it does not operate in conformance with the terms and stipulations of the rate order, including the service plan outlined in the order and any other significant elements of the required service, without prior approval. The carrier understands that an aircraft take-off and landing at its scheduled destination constitutes a completed flight; absent an explanation supporting subsidy eligibility for a flight that has not been completed, such as certain weather cancellations, only completed flights are considered eligible for subsidy. In addition, if the carrier does not schedule or operate its flights in full conformance with this order for a significant period, it may jeopardize its entire subsidy claim for the period in question. If the carrier contemplates any such changes beyond the scope of the order during the applicable period of this rate, it must first notify the Office of Aviation Analysis in writing and receive written approval from the Department to be assured of full compensation. Should circumstances warrant, the Department may locate and select a replacement carrier to provide service on this route. The carrier must complete all flights that can be safely operated. Carriers will not be compensated for flights that overfly points for lack of traffic. In determining whether subsidy payment for a deviating flight should be adjusted or disallowed, the Department will consider the extend to which the goals of the program are met and the extent of access to the national air transportation system provided to the community.

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[1] Annual compensation of $595,373 divided by the number of flights scheduled annually (1,497), calculated by multiplying the number of flights scheduled annually in the peak, shoulder and off-peak periods (1,528) times 0.98 completion factor.
[2] The subsidy rate per arrival/departure ($397.71) times 42 scheduled subsidy-eligible flights each week in the 20-week peak summer period from May 15 through September 15. Calendar weeks that fall into separate calendar months will be treated as part of the later month for the purpose of calculating both calendar weeks per month and the monthly compensation.
[3] The subsidy rate per arrival/departure ($397.71) times 24 scheduled subsidy-eligible flights each week in the two six-week shoulder periods from September 16 through October 31, and April 1 through May 14.
[4] The subsidy rate per arrival/departure ($397.71) times 20 scheduled subsidy-eligible flights each week in the 20-week off-peak period from November 1 through March 31.

If the Department unilaterally, either partially or completely, terminates or reduces payments for service or changes service requirements at a specific location provided for under this order, then, at the end of the period for which the Department does make payments in the agreed amounts or at the agreed service levels, the carrier may cease to provide service to that specific location without regard to any requirement for notice of such cessation. Those adjustments in the levels of subsidy and/or service that are mutually agreed to in writing by the parties to the agreement do not constitute a total or partial reduction or cessation of payment.

Subsidy contracts are subject to, and incorporate by reference, relevant statutes and Department regulations, as they may be amended form time to time. However, any such statutes, regulations, or amendments thereto shall not operate to controvert the foregoing paragraph.

**ESSENTIAL AIR SERVICE TO BE PROVIDED
BY SUNRISE AIRLINES, INC.
AT ELY, NEVADA**

EFFECTIVE PERIOD	From the date that the carrier commences service on or about July 1, 1999, through June 30, 2001
SERVICE	Twelve nonstop round trips to Elko, and six nonstop round trips to Las Vegas, each week
UPLINE SERVICE	Not permitted
AIRCRAFT	19-seat Jetstream
MINIMUM NO. OF SEATS TO BE AVAILABLE IN EACH DIRECTION EACH SERVICE DAY	To Elko - 38 To Las Vegas - 19
MINIMUM NO. OF PILOTS	Two
TIMING OF FLIGHTS	Flights must be well-timed and well-spaced to ensure full compensation
ANNUAL COMPENSATION	$1,087,340
SUBSIDY RATE PER ARRIVAL AT OR DEPARTURE FROM ELY	$609.50 [1]
COMPENSATION CEILING PER WEEK: [3]	$21,942 [2]

NOTE: The carrier understands that it may forfeit its compensation for any flights that it does not operate in conformance with the terms and stipulations of the rate order, including the service plan outlined in the order and any other significant elements of the required service, without prior approval. The carrier understands that an aircraft take-off and landing at its scheduled destination constitutes a completed flight; absent an explanation supporting subsidy eligibility for a flight that has not been completed, such as certain weather cancellations, only completed flights are considered eligible for subsidy. In addition, if the carrier does not schedule or operate its flights in full conformance with this order for a significant period, it may jeopardize its entire subsidy claim for the period in question. If the carrier contemplates any such changes beyond the scope of the order during the applicable period of this rate, it must first notify the Office of Aviation Analysis in writing and receive written approval from the

[1] Annual compensation of $1,087,340 divided by the number of flights scheduled annually (1,784), calculated by multiplying 6 arrivals/departures per service day times 0.95 completion factor.
[2] The subsidy rate per arrival/departure times the number of scheduled subsidy-eligible flights per week (36).
[3] Calendar weeks that fall into separate calendar months will be treated as part of the later month for the purpose of calculating both calendar weeks per month and the monthly compensation.

Department to be assured of full compensation. Should circumstances warrant, the Department may locate and select a replacement carrier to provide service on this route. The carrier must complete all flights that can be safely operated. Carriers will not be compensated for flights that overfly points for lack of traffic. In determining whether subsidy payment for a deviating flight should be adjusted or disallowed, the Department will consider the extend to which the goals of the program are met and the extent of access to the national air transportation system provided to the community.

If the Department unilaterally, either partially or completely, terminates or reduces payments for service or changes service requirements at a specific location provided for under this order, then, at the end of the period for which the Department does make payments in the agreed amounts or at the agreed service levels, the carrier may cease to provide service to that specific location without regard to any requirement for notice of such cessation. Those adjustments in the levels of subsidy and/or service that are mutually agreed to in writing by the parties to the agreement do not constitute a total or partial reduction or cessation of payment.

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**ESSENTIAL AIR SERVICE TO BE PROVIDED
BY ALPINE AVIATION, INC.
AT ELY, NEVADA**

EFFECTIVE PERIOD	Beginning on the date that Sunrise Airlines commences service at Moab in accordance with Appendix B of this order, or about June 15, 1999, until the date that Sunrise commences service at Ely, in accordance with Appendix C of this order, on or about July 1, 1999.
SERVICE	12 nonstop round trips each week between Ely and Salt Lake City (184 miles)
AIRCRAFT	Piper Cheyenne – 8 passenger seats
MINIMUM NO. OF PILOTS	Two
TIMING OF FLIGHTS	Flights must be well-timed and well-spaced to ensure full compensation
ANNUAL COMPENSATION	$684,137 [1]
SUBSIDY RATE PER ARRIVAL AT OR DEPARTURE FROM ELY	$559.39 [2]
COMPENSATION CEILING PER WEEK: [4]	$13,425.36 [3]

NOTE: The carrier understands that it may forfeit its compensation for any flights that it does not operate in conformance with the terms and stipulations of the rate order, including the service plan outlined in the order and any other significant elements of the required service, without prior approval. The carrier understands that an aircraft take-off and landing at its scheduled destination constitutes a completed flight; absent an explanation supporting subsidy eligibility for a flight that has not been completed, such as certain weather cancellations, only completed flights are considered eligible for subsidy. In addition, if the carrier does not schedule or operate its flights in full conformance with this order for a significant period, it may jeopardize its entire subsidy claim for the period in question. If the carrier contemplates any such changes beyond the scope of the order during the applicable period of this rate, it must first notify the Office of Aviation Analysis in writing and receive written approval from the

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[1] Alpine's compensation of $634,137, established by Order 97-12-29, plus $50,000 as discussed at page 4 of this order.
[2] Annual compensation of $684,137 divided by the number of flights scheduled annually to Salt Lake City and from Salt Lake City, calculated by multiplying:
24 arrivals/departures per week x 52 weeks x .98 completion factor: $684,137/1,223=$559.39
[3] The subsidy rate per arrival/departure ($559.39) times 24 scheduled subsidy-eligible flights each week.
[4] Calendar weeks that fall into separate calendar months will be treated as part of the later month for the purpose of calculating both calendar weeks per month and the monthly compensation.

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